

2005 ELDERLY HOUSING DISTRICT ZONING BY-LAW

3.16 Elderly Housing District.

A. Permitted Uses and Special Permit Uses. In an Elderly Housing District no building or land shall be used and no buildings shall be erected or converted except for the following purposes:

1. To provide, upon the grant by the Planning Board of a Special Permit and the approval of a Site Plan, multifamily residences for the Elderly, defined as housing intended for occupancy by persons 55 years of age or older, within the meaning of M.G.L. Chapter 151B and 42 U.S.C. §3607 and operated in compliance with the regulations of said statutes and corresponding regulations.
2. Any of the uses permitted, as a matter of right in the underlying Residential District with the development regulations applicable to such District as set forth in the Zoning By-Law for such underlying District. (Art. 29, 5-3-1988)

B Accessory uses permitted in an Elderly Housing District shall include:

1. Garages;
2. One separate building, not exceeding one story in height, to house, snow removal and mowing machines, garden and other tools and equipment required to maintain and service housing for the elderly;
3. One building not exceeding thirty-five (35) feet in height and used as a common building by the residents of the District, which building may include central kitchen and dining facilities for residents, gym or exercise rooms thereof and their guests and may also provide lounge and meeting rooms for the common use of residents and their guests.
(Art. 29, 5-3-1988)

C Special Permit and Site Plan Approval. In an Elderly Housing District no building shall be constructed, enlarged or changed to accommodate multifamily

residences for the elderly except in conformity to this By-Law and to a Special Permit granted by the Planning Board and a Site Plan bearing the approval of the Planning Board. The Planning Board shall not approval any such Special Permit or Site Plan unless the applicable standards in Massachusetts General Laws and the following standards and criteria are met:

1. Standards.

- a. The Planning Board shall find that the proposed Elderly Housing Development is in harmony with the purposes and intent of this By-Law as set forth herein.
- b. The land shown on the Site Plan (the "Lot") shall contain not less than ten (10) acres.
- c. All Elderly Housing shall be subject to a permanent age restriction described in a deed, deed rider, lease, and the organizational documents for the Elderly Housing Development that shall be recorded with Essex South District Registry of Deeds or filed with the Essex South Registry District of the Land Court. To the extent permitted by law, the age restriction shall limit the Dwelling Units to occupancy by seniors, age 55 or older, and their spouses of any age. The age restriction shall run with the land in perpetuity and shall be enforceable by any or all of the owners of Dwelling Units in the Elderly Housing District or by the Town.
- d. All newly constructed housing developed in an Elderly Housing District shall have not more than five (5) Dwelling Units per acre of buildable area.
- e. All buildings, including accessory buildings, shall cover not more than fifty (50%) percent of the buildable area of the Lot and fifty percent (50%) of the Lot shall be set aside as permanent open space
- f. The Lot shall have frontage of not less than fifty (50) feet on a public way.
- g. Every structure in an Elderly Housing District shall be so located so as not to extend closer than twenty five (25) feet from the street line.
- h. The Site Plan shall provide that there shall be on the Lot off-street parking of not less than six (6) nor more than eight (8) parking spaces for each three (3) elderly dwelling units contained in the development. Parking spaces within a garage shall be counted toward the required

number of parking spaces.

- i. Roads and ways within the Elderly Housing Development shall be constructed in accordance with the Planning Board Subdivision regulations with such waivers, if any, as the Planning Board deems appropriate.
- j. The Lot shall be a size and shape as shall provide an Elderly Housing Development which will be in harmony with the natural terrain and other features of the site and will preserve natural vistas and the existing rural or other character of the neighborhood.
- k. The Lot shall be supplied with a water system approved by the Planning Board with the advice of the Water Department, adequate to meet the needs of the Dwelling Units and accessory structures constructed on the site.
- l. All Dwelling Units must be served by adequate sewage treatment facilities or an on-site sewage disposal system approved by the Board of Health or other appropriate approval agency.
- m. No Lot on a Site Plan for which an approval is granted under this section may be further subdivided so as to create additional buildable lots and a notation to that effect shall be shown on the Site Plan.
- n.
- o. Buildings shall not be located less than twenty feet apart.
- p. Buildings and improvements shall be designed to be consistent with the appearance of the Town and shall be complementary in exterior design with each other and, where applicable, with the existing neighborhood in which the Elderly Housing Development is located.
- q. Sufficient security must be provided to insure completion of the development and continuing compliance upon its completion with the provisions of the approval.

- r. A Buffer Zone shall be required between the Elderly Housing Development and adjoining properties to provide visual and privacy for such adjoining properties. The Planning Board may require appropriate landscaping, fencing and other site improvements to accomplish such purposes. In no case shall said Buffer Zone be less than twenty-five (25) feet in depth for all side and rear boundaries of the site.
- s. No building in an Elderly Housing District shall exceed two and one-half (2) stories or thirty-five (35) feet in height.
- t. The applicant shall furnish the Planning Board with a Marketing Plan for the Elderly Housing Development, which plan shall be subject to the approval of the Board of Selectmen or its designee. The Eligibility Plan shall to the extent permitted by law provide a preference first to Topsfield residents, then to immediate family members of Topsfield residents, and then to former residents of Topsfield.
- u. Site Plan Review under this section shall be conducted in conformance with the requirements, rules, and regulations set forth in Article IX, and the regulations adopted thereunder, except that any requirements set forth shall govern.

1. Site Plan and Special Permit Approval Application.

a. Eligibility:

An applicant may submit a Plan of Land ("Site Plan") to the Planning Board for a Special Permit and Site Plan Approval

a. Contents of the Application.

Each application shall include:

- (i) All information required for submission of a Definitive Plan for Standard Subdivisions as provided for in Planning Board's Rules and Regulations governing the subdivision of land.

- i. A Landscape Plan drawn by a Landscape Architect, which Plan shall indicate the species, height and density of landscaping to provide the Buffer Zone required in Section 3.16 C.1.q.
- ii. Provisions for privacy and security.
- iii. Provisions for parking in compliance with Section 3.16 C.1.h.
- iv. Proposed landscaping, exterior lighting, architectural exterior design and elevations, typical floor plans.
- v. Proposed form of ownership and the proposed condominium documents, covenants and/or agreements binding on occupants of the Dwelling Units.
- vi. Proposed open space to be no less than fifty (50%) of the Lot.
- vii. Projected advantages to the Town of the proposed Elderly Housing Development compared to alternative permitted uses at the same site.
 - (ix) Projected revenues to the Town in taxes.
 - (x) An Eligibility Plan for the Development as required under Section 3.16 C.1(s).

(Art. 29, 5-3-1988; Art. 16, 5-4-1993)

- D. Procedure. The original and five (5) copies of the application for an Elderly Housing Development together with the Site Plan, Landscaping Plan and Eligibility Plan shall be filed with the Planning Board and with the Town Clerk.

The Planning Board, acting as the Site Plan Approval Authority and Special Permit Granting Authority under this section, shall give notice, conduct public hearing and render a decision in conformity with Massachusetts General Laws, Chapter 40A, Section 9, and Section 5.04 of

the Zoning By-Law.

- E. Grant of Approval. The Planning Board shall grant an approval if it determines that the Elderly Housing Development as proposed meets the standards for granting Special Permits and;
1. The Elderly Housing Development promotes the more efficient use of land in harmony with its natural features, watercourses, scenic areas, natural vistas, existing rural character, and similar community assets with the general intent of the Zoning By-Law and the long-range plans of the Town.
 2. The Elderly Housing Development protects adjoining premises against serious detrimental effects by providing inter alia, surface water drainage, sound and sight barriers and preservation of views, light and air.
 3. The Elderly Housing Development provides for convenience and safety of vehicular and pedestrian movement within the site, and for appropriate location of driveway openings in relation to traffic or to adjacent streets.
 4. The Elderly Housing Development provides for adequate methods of disposal of refuse and other wastes.
 5. The Elderly Housing Development provides for suitable architectural design and a favorable relationship of structures and open space to the natural landscape, barriers and preservation of views, light and air.
- F. Affordable Housing.
1. The Planning Board shall require that fifteen percent (15%) of the Dwelling Units be set aside as affordable housing units for families who qualify as with income at or below 80% of the medium income as determined by the U.S. Department of Housing and Urban Development and the cost of the Affordable Housing Dwelling Unit shall not exceed thirty percent (30%) of their total income.
 2. To the extent permitted by law, the affordable units shall be offered to Topsfield Residents before being offered to non-Topsfield Residents.

3. The affordable units shall be sold to qualified elderly persons in accordance with the income and asset limitations established by DHCD under the Local Initiative Program.
4. Affordable units shall be disbursed throughout the Elderly Housing Development and shall be compatible with and generally comparable to the market rate units in terms of location, quality and character.
6. At the discretion of the Planning Board, the petitioner may be permitted to set aside a lower percentage of affordable units, or none at all, if in the opinion of the Planning Board, the provision of the required percentage of affordable units will threaten the viability of the Development. or to permit the petitioner to:
 - a. make a cash contribution to the Town or its designee for use by the Town in providing or subsidizing affordable housing;
 - b. construct or rehabilitate affordable units on a locus off-site;
 - c. offer to the Town donations of land in fee simple, on-site or off-site as the Planning Board in its sole discretion determines are suitable for the construction of affordable units.

In all such cases, the value of cash contribution, cost of construction or rehabilitation of affordable units or the value of the donated land shall be calculated as the difference between the average market rate of all of the elderly units and the affordable sales price during the fiscal year of the payment, construction or rehabilitation, or donation which shall be committed by September 30 of the following fiscal year.

7. The affordable units shall be maintained as affordable in perpetuity. Affordability restrictions shall be recorded in applicable deed covenants or deed riders to insure compliance with this section. Said restrictions shall be enforceable by the Town.
8. Prior to the sale of the first Dwelling Unit, a certificate of compliance shall

be issued by the Planning Board indicating compliance with the provisions of this subsection, including without limitation, the recording or filing of the affordability restrictions required herein and the payment of the required cash or other contribution has been made to the Town or its designee.

9. In determining the total number of affordable units required, a fractional percentage of 0.5 or more shall be regarded as a whole unit. In determining the total number of affordable units required, a fractional percentage percentage of less than 0.5 shall not be regarded as a whole unit.

G. Additional Provisions.

1. Construction must commence within two years of the granting of the approval of the Site Plan. Construction of the Elderly Housing Development must be completed within six (6) years of its commencement unless otherwise provided for in the approval.
2. No zoning map amendment shall create an Elderly Housing District except upon the petition by the owner of, or one holding a valid purchase and sale agreement on the land to be so designated.
3. The Planning Board shall have the authority to adopt rules and regulations consistent with this Bylaw.

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